

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-0963V

UNPUBLISHED

DENNIS CASHEL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 7, 2021

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Guillain-
Barre Syndrome (GBS)

Robert H. Pedroli, Pedroli & Gauthier, LLC, Clayton, MO, for Petitioner.

Zoe Wade, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On August 4, 2020, Dennis Cashel filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered Guillain-Barré syndrome (“GBS”) which meets the definition for a Table GBS or, in the alternative, was caused-in-fact by the influenza vaccine he received on September 24, 2018. Petition at ¶¶ 2, 23, 26. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 19, 2021, a ruling on entitlement was issued, finding Petitioner entitled to compensation for his GBS. On May 7, 2021, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$140,464.00, representing compensation in the amounts of \$140,000.00 for pain and suffering and \$464.00 for unreimbursed expenses. Proffer at 1. In the Proffer, Respondent represented

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. §3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$140,464.00, representing compensation in the amounts of \$140,000.00 for pain and suffering and \$464.00 for actual unreimbursable expenses in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

DENNIS CASHEL,

Petitioner,

V.

SECRETARY OF HEALTH AND HUMAN
SERVICES,

Respondent.

No. 20-963V

Chief Special Master Corcoran
ECF

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

I. Procedural History

On August 4, 2020, Dennis Cashel (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that he suffered Guillain Barré Syndrome (“GBS”) as a result of an influenza vaccine he received on September 24, 2018. Petition at 1-2. On March 9, 2021, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act. ECF No. 16.

II. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum of **\$140,464.00** (\$140,000.00 for pain and suffering and \$464.00 for unreimbursed expenses) for all damages in this case. This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

III. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of **\$140,464.00**, in the form of a check payable to petitioner.¹

Petitioner agrees.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

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/s/ Zoë Wade
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Dated, May 7, 2021.

¹ Should petitioner die prior to entry of judgment, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering, and the parties reserve the right to move the Court for appropriate relief.